




FARMINGTON POLICE DEPARTMENT

POLICY AND PROCEDURE

	Policy Number: 274-04	Effective Date: 11/11/2016	
	Subject: Diplomatic and Consular Officials		
	Approved by:  Steven D. Hebbe, Chief of Police		

PURPOSE:

To provide guidelines and procedures concerning the issue of immunity of Diplomatic and Consular Officials.

POLICY:

It is the policy of the Farmington Police Department to comply with the Vienna Convention on Diplomatic Relations enacted on December 13, 1972, concerning the enforcement actions of Diplomatic and Consular Officials.

PROCEDURE:

Enforcement Actions of Diplomatic and Consular Officials:

The law:

The Vienna Convention on Diplomatic Relations enacted on December 13, 1972, changes the immunity status of family members of diplomatic mission employees serving in foreign countries. As a result, the Office of the Chief of Protocol, U.S. Department of State, has revised the standing order to police officers on immunity of diplomatic personnel and their families. These new guidelines are set out here with the cooperation of the Department of State. They should be informational not only to those departments having official foreign missions in their territories, but to any police officer who could encounter diplomatic personnel and their families traveling throughout the United States.

Diplomatic Immunity:

Diplomatic immunity, a principle of international law, is broadly defined as the freedom from local jurisdiction accorded to duly accredited diplomatic officers, their families, and servants. Diplomatic officers should not be arrested or detained for any offense, and foreign career consular officers should not be arrested or detained except for the commission of a grave crime (felony offense that would endanger the public safety).

Family members of diplomatic officers, their servants, and employees of a diplomatic mission are entitled to the same immunities under current U.S. law (22 U.S.C. 252), if they are not nationals of or permanently resident in the receiving state.

Diplomatic Officers:

Ambassadors and Ministers are the highest ranking diplomatic representatives of a foreign government. Other diplomatic titles are Minister Counselor, Counselor, First Secretary, Second Secretary, Third Secretary, and Attache. These officials are located either in Washington D.C., or in New York City. Diplomatic officers, their families, official staff, and servants, who are not nationals of or permanently residing in the receiving state, are protected by unlimited immunity from arrest, detention, or prosecution with respect to any civil or criminal offense.

Consular Officers:

Consular Officers are Consuls General, Deputy Consuls General, Consuls, and Vice Consuls. They are also official representatives of foreign governments. Consular Officers are required to be treated with due respect, and all appropriate steps are to be taken to prevent any attack on their person, freedom, or dignity. They are entitled to limited immunities as described below.

Under prevailing international law and agreement, a foreign career Consular Officer is not liable to arrest or detention pending trial except in the case of a grave crime and pursuant to a decision by the competent judicial authority. His immunity from criminal jurisdiction is limited to acts performed in the exercise of consular functions and is subject to court determination.

Career Consular Officers can be identified by credentials issued by the State Department and by other locally issued official identification papers. The State Department credential bears its seal, the name of the officer, his title, and the signatures of State Department officials.

Offenses Involving Family Members of a Consular Officer:

Family members of a Consular Officer cannot claim immunity; however, consideration should be given to the special nature of this type of case. A violation should be handled, when possible, through the seeking of a complaint. The individual should be released once positive identification is made and relationship with the consular office is verified. If the relative is a juvenile, as in all juvenile cases, the subject should be released to the parent consular officer.

Legislators:

Diplomatic Immunity for New Mexico State Legislators is covered under Legislators in Policy 93-09, Special Circumstances in Traffic Enforcement.